

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Dennis R. Ely property

DEPARTMENT: County Attorney's Office

DIVISION: Litigation

AUTHORIZED BY: Lola Pfeil

CONTACT: Sharon Sharrer

EXT: 7257

MOTION/RECOMMENDATION:

Dennis R. Ely property. Approval of the proposed negotiated settlement relating to Parcel Number 104, County Road 15 road improvement project. The proposed settlement is at the total sum of \$108,000.00 inclusive of all compensation to the owner, attorney fees of any kind, all costs, interest and any other matter for which Seminole County might be obligated to pay relating to these parcels. Judge John D. Galluzzo.

District 5 Brenda Carey

Bob McMillan

BACKGROUND:

see attached

STAFF RECOMMENDATION:

Staff recommends that the Board approve the proposed negotiated settlement relating to Parcel Number 104, County Road 15 road improvement project. The proposed settlement is at the total sum of \$108,000.00 inclusive of all compensation to the owner, attorney fees of any kind, all costs, interest and any other matter for which Seminole County might be obligated to pay relating to these parcels.

ATTACHMENTS:

1. Dennis R. Ely property

Additionally Reviewed By: No additional reviews



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Matthew G. Minter, Deputy County Attorney *Matthew G. Minter*

FROM: David G. Shields, Assistant County Attorney *David G. Shields*
Ext. 5736

CONCUR: Pam Hastings, Administrative Manager/Public Works Department *0000581*
David Nichols, Principal Engineer/Engineering Division *David Nichols 8-31-07*

DATE: August 30, 2007

RE: Settlement Authorization
County Road 15
Parcel No. 104; Dennis R. Ely
Seminole County v. Seminole Co. State Road 46, Ltd., et al.
Case No. 2007-CA-1605-101C-13-L

This memorandum requests settlement authorization by the Board of County Commissioners (BCC) for Parcel No. 104 on the County Road 15 road improvement project. The recommended settlement is at the total sum of \$108,000.00 inclusive of all compensation to the owner, attorney fees of any kind, all costs, interest and any other matter for which Seminole County might be obligated to pay in the referenced case.

I. THE PROPERTY:

A. Location Data

The subject property is located along the east side of County Road 15 (Monroe Road) north of State Road 46, within unincorporated Seminole County, Florida. A location map is attached as Exhibit A.

B. Property Address

The street address is 145 Monroe Road, Sanford, FL 32771-6519. A parcel sketch is attached as Exhibit B.

II AUTHORITY TO ACQUIRE.

The BCC adopted Resolution No. 2006-R-114 on May 9, 2006, authorizing the acquisition of Parcel No. 104. The County Road 15 road improvement project was found to be necessary and serving a public purpose and in the best interests of the citizens of Seminole County. The Order of Take occurred on August 13, 2007, with title vesting in Seminole County on August 21, 2007, the date of the good faith deposit in the amount of \$60,000.00.

III ACQUISITIONS AND REMAINDER

The acquisition of Parcel No. 104 is 3,399 square feet in fee simple. The acquisition of this parcel will leave a remainder of 17,611 square feet from a parent tract of 21,010 square feet. The taking is a rectangular strip of land that will be taken from the subject's frontage on County Road 15.

IV APPRAISED VALUES

The County's original report dated July 5, 2006, was prepared by Florida Realty Analysts, Inc., and reported full compensation to be \$49,600.00. The updated report dated July 18, 2007, opines the same value.

The owner's report prepared by Florida Real Estate Analysts, Inc., dated February 9, 2007, opined full compensation to be \$125,200.00.

V BINDING OFFER/NEGOTIATION

The County's initial written offer was \$60,000.00, exclusive of costs and fees. The owner originally accepted the County's initial written offer provided that we relocate the driveway as far north on the property line as possible and accept all future stormwater run-off from any future development of the subject's remainder into the County's stormwater retention system, plus pay nominal attorney's fees and costs on an hourly rate not based upon non-monetary benefits.

The County was not able to accept the owner's counteroffer with the contingencies because the driveway has already been moved as far north as possible and it cannot be relocated any further due to safety reasons. The County cannot accept future stormwater run-off from any future development of the property because the property is not within the drainage basin for the road.

VI ATTORNEY'S FEES AND COSTS

Attorney's fees and costs are inclusive in this settlement. As such, the attorney fees are not based on a statutory computation and the attorney fees and costs are not specifically allocated.

VII COST AVOIDANCE

The difference between the County's \$49,600.00 appraisal value and the owner's \$125,200.00 appraisal value is \$75,600.00. Both appraisals appear to represent good faith efforts to arrive at a fair valuation. When faced with two "reasonable," but differing appraisals, juries tend to return a verdict around midpoint. The midpoint of the two appraisals is \$87,400.00. The difference between the settlement at \$108,000.00 and the appraisal midpoint of \$87,400.00 is \$20,600.00. If the case were not to settle at this early stage, it is reasonable to predict the owners' attorney fees and expert costs could exceed this \$20,600.00 difference.

By this settlement, the County avoids all additional costs associated with litigation.

VIII RECOMMENDATION

County staff recommends that the BCC approve this negotiated settlement in the total sum of \$108,000.00, inclusive of all compensation to the owner, attorney fees of any kind, all costs, interest and any other matter for which Seminole County might be obligated to pay relating to this parcel.

DGS/dre

Two (2) Attachments:

Exhibit A - Location Map

Exhibit B – Sketch

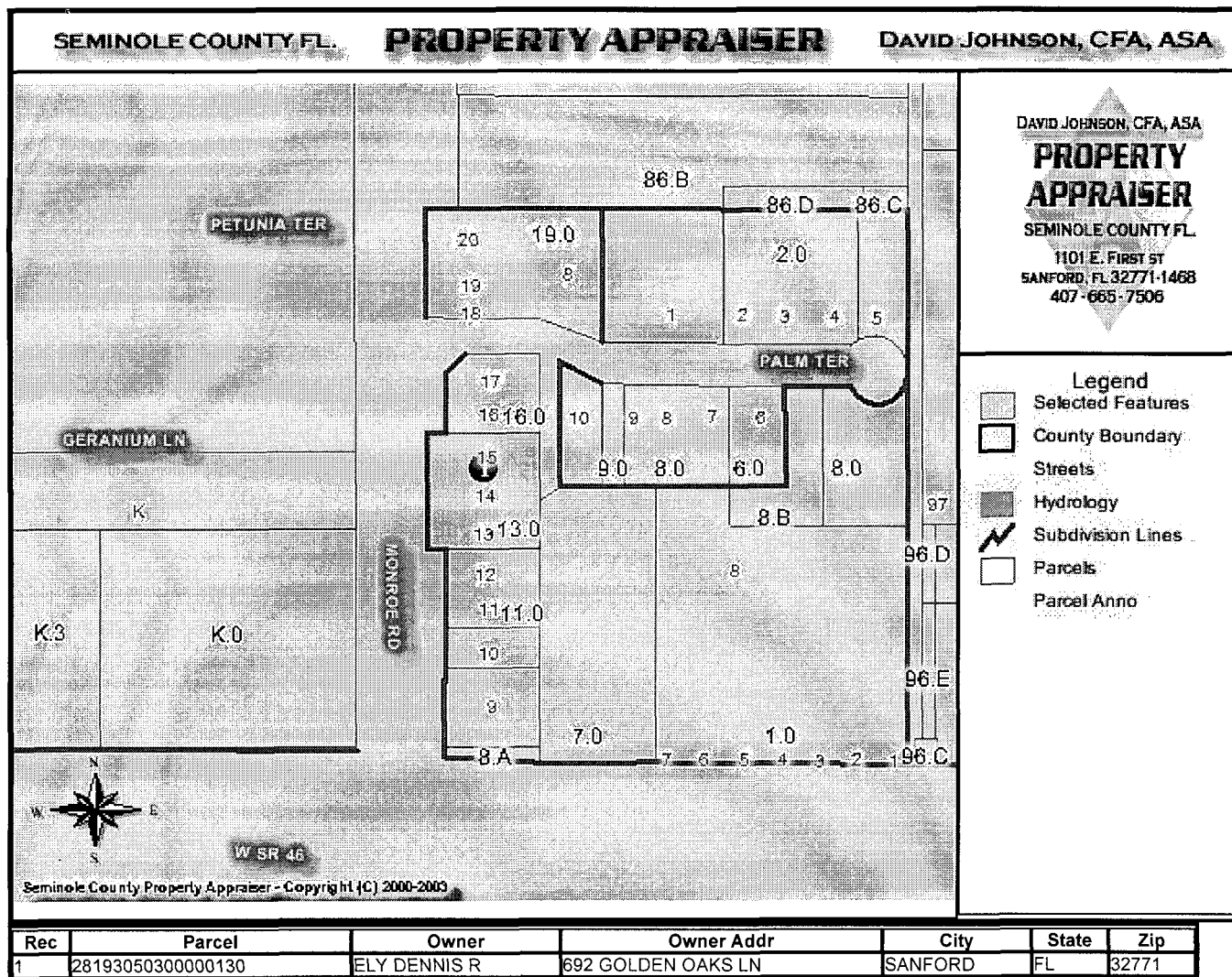


EXHIBIT A



PARENT TRACT
AREA OF TAKE
21,010 SF

REMAINDER TRACT
PROPERTY LINE
17,611 SF

AREA OF TAKE



PARENT TRACT : WITH TAKING SHOWN

PARCEL 104
C.R. 15 / MONROE ROAD
SEMINOLE CO., FLORIDA



gai consultants
618 East South Street
Gainesville, Florida 32601
800-762-8658

SHEET: 2
PROJECT NUMBER:
A060352.00
FILE NAME: par104.dwg

BLDG. EOP SETBACK	PHP	8/24/06
SCALE AS SHOWN		
DRAWN: PHP	APPROVED: JMS	
CHECKED: DCO	APP. DATE: 08/28/06	